

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
Legal Consultant - Review of
Proposed Charter School Applications
RFP 2020**

Section 1 – Overview and Schedule

A. Purpose

The New Hampshire Department of Education (NHDOE) is seeking proposals from legal consultants with experience and familiarity with New Hampshire law, particularly Chartered Public Schools, RSA 194-B and New Hampshire Code of Administrative Rules Ed 318.

The successful bidder will review newly proposed applications, submitted to the NHDOE, by interested outside parties seeking to open a public charter school in New Hampshire. The successful bidder will be responsible for making a determination of the proposed Charter’s legal compliance with RSA 194-B and Ed 318.

For each application reviewed, feedback must be provided in the form of a detailed written report as well as completion of the criteria outlined in RSA 194-B:3, II and Ed 318 prior to the proposed application being presented to the New Hampshire State Board of Education for approval.

B. Schedule

The following table provides a Schedule of Events for this RFP through contract finalization and Notice to Proceed. The Agency reserves the right to amend this Schedule at its sole discretion and at any time through a published Addendum.

| EVENT | DATE | LOCAL TIME |
|---|-------------|-------------------|
| RFP Released to Proposers (Advertisement) | 01/13/2020 | N/A |
| Proposers Submit Proposals | 01/31/2020 | 4:00 PM |
| Proposer Oral Presentations and Interviews (if applicable) | | TBD |
| Estimated Notification of Selection and Begin Contract Negotiations | | TBD |

Section 2 - Description of Agency/Program Issuing the Request for Proposals

The Bureau of Educational Opportunities, Office of Charter Schools provides administrative oversight of the public charter school approval process, including the required legal review for which this request for proposal has been submitted.

Section 3 – Proposed Scope of Work

The successful bidder will be contracted under a short form contract not to exceed beyond the date of December 31, 2020.

The successful bidder will provide the following services as part of his/her contract:

- Review of newly proposed charter school applications, submitted to the NHDOE, to determine the applicant's compliance with RSA 194-B, New Hampshire Chartered Public Schools and Ed 318.
- Submit, to the NHDOE, a detailed written report of the legal findings based upon the overall application flow and its compliance with New Hampshire law.
- Provide suggestions, within the written report, on how the applicant may enhance their application in order to meet the requirements of RSA 194-B and Ed 318
- Provide a "met/not met" element-by-element summary based upon the statutory requirements of RSA 194-B:3, II and Ed 318.
- Utilize maximum effort in completing services in the most expeditious and economical manner consistent with the best interest of New Hampshire.
- Contractor agrees to complete the legal review within 30 calendar days of receipt of an application.

The NHDOE shall share the above information provided by the contractor with the charter school applicant, other NHDOE representatives, peer reviewers, the Commissioner of Education, and the New Hampshire State Board of Education.

Section 4 – Process for Submitting a Proposal

A. Proposal Submission, Deadline, and Location Instructions

Proposals submitted in response to this RFP must be received by the Department of Education no later than the time and date specified in the Schedule of Events section, herein. Proposals may be submitted by U.S. Mail, Delivery Service or E-mail. Proposals must be addressed to:

**State of New Hampshire
Department of Education**

c/o

Nathaniel Greene,
101 Pleasant Street
Concord, NH 03301

Proposals must be clearly marked as follows:

**STATE OF NEW HAMPSHIRE
RESPONSE TO RFP 2019-2020
Legal Consultant - Review of
Proposed Charter School Applications**

Unless waived as a non-material deviation in accordance with Section 6B, late submissions will not be accepted and will be returned to the proposers unopened. Delivery of the Proposals shall be at the Proposer's expense. The time of receipt shall be considered when a Proposal has been officially documented by the Agency, in accordance with its established policies, as having been received at the location designated above. The Agency accepts no responsibility for mislabeled mail or mail that is not delivered or undeliverable for whatever reason. Any damage that may occur due to shipping shall be the Proposer's responsibility.

All Proposals submitted in response to this RFP must consist of at least:

- a) One (1) original and two (2) clearly identified copies of the Proposal, including all required attachments

B. Proposal Inquiries

All inquiries concerning this RFP, including but not limited to, requests for clarifications, questions, and any changes to the RFP, shall be submitted via email to the following RFP designated Points of Contact:

TO: Nathaniel.Greene@doe.nh.gov

CC: Caitlin.Davis@doe.nh.gov

The Agency intends to issue official responses to properly submitted inquiries. The Agency may consolidate and/or paraphrase questions for sufficiency and clarity. The Agency may, at its discretion, amend this RFP on its own initiative or in response to issues raised by inquiries, as it deems appropriate. Oral statements, representations, clarifications, or modifications concerning the RFP shall not be binding upon the Agency. Official responses by the Agency will be made only in writing by the process described above.

C. Restriction of Contact with Agency Employees

From the date of release of this RFP until an award is made and announced regarding the selection of a Proposer, all communication with personnel employed by or under contract with the Agency regarding this RFP is forbidden unless first approved by the RFP Points of Contact listed in the Proposal Inquiries section, herein. Agency employees have been directed not to hold conferences and/or discussions concerning this RFP with any Contractor during the selection process, unless otherwise authorized by the RFP Points of Contact.

D. Validity of Proposal

Proposals must be valid for one hundred and eighty (180) days following the deadline for submission of Proposals in Schedule of Events, or until the Effective Date of any resulting Contract, whichever is later.

Section 5 - Content and Requirements for a Proposal

Proposals shall follow the following format and provide the required information set forth below:

At a minimum, the proposal must contain the following information:

- **A coversheet to include: (see last page for coversheet) (5 points)**
 - Applicant name and contact information
 - List of attachments and number of pages of each, i.e., summary page, resume
 - Total number of pages of the entire packet, including coversheet
 - Signature of applicant certifying the packet is complete
 - Date submitted
- **Proposal to include: (45 points)**
 - A cover letter/summary page describing the bidder's interest in this project and the relevance of this contract to the bidder's professional experience and background (25 points).
 - A resume of the bidder's professional qualifications, to include a list of references (10 points).
 - A proposed budget cost per application reviewed, with justification (10 points).

Submission Requirements

- All proposals must be received by the New Hampshire Department of Education no later than 4:00 p.m. *Tuesday, December 31st*.
- Proposals must be 12-point font
- Proposals must not exceed five (5) pages.
- All pages must be numbered consecutively.

Section 6 – Evaluation of Proposals

A. Criteria for Evaluation and Scoring

Each responsive Proposal will be evaluated and considered with regard to the following criteria:

- Qualifications, including admittance and good standing with the New Hampshire Bar Association
- Experience

If the Agency, determines to make an award, the Agency will issue an “intent to negotiate” notice to a Proposer based on these evaluations. Should the Agency be unable to reach agreement with the selected Proposer during Contract discussions, the Agency may then

undertake Contract discussions with the second preferred Proposer and so on, or the Agency may reject all proposals, cancel this RFP, or solicit new Proposals under a new acquisition process.

The Agency will select a Proposer based upon the criteria and standards contained in this RFP and from applying the weighting in this section. Oral interviews and reference checks, to the extent they are utilized by the Agency, will be used to refine and finalize preliminary scores.

B. Rights of the Agency in Accepting and Evaluating Proposals

The Agency reserves the right to:

- Make independent investigations in evaluating Proposals;
- Request additional information to clarify elements of a Proposal;
- Waive minor or immaterial deviations from the RFP requirements, if determined to be in the best interest of the State;
- Omit any planned evaluation step if, in the Agency's view, the step is not needed;
- At its sole discretion, reject any and all Proposals at any time; and
- Open contract discussions with the second highest scoring Proposer and so on, if the Agency is unable to reach an agreement on Contract terms with the higher scoring Proposer(s).

C. Planned Evaluations

The Agency plans to use the following process:

- Initial screening to ensure that the Proposals are in compliance with submission requirements;
- Preliminary evaluation of the Proposals;
- Oral interviews and Product Demonstrations (if necessary);
- Final Evaluation of Technical Proposals and scoring;
- Select the highest scoring Proposer and begin contract negotiation.

D. Initial Screening

The Agency will conduct an initial screening step to verify Proposer compliance with submission requirements and minimum content set forth in Section 5 of this RFP. The Agency may waive or offer a limited opportunity to cure immaterial deviations from the RFP requirements if it is determined to be in the best interest of the State.

E. Preliminary Technical Scoring of Proposals

The Agency will establish an evaluation team to initially score the Technical Proposals. This evaluation team will review the technical proposals and give a preliminary score to the technical proposals under the guidelines set forth in Section 5.

F. Oral Interviews and Product Demonstrations

If the Agency determines that it is appropriate, proposers may be invited to oral interviews. The Agency retains the sole discretion to determine whether to conduct oral interviews and how many interviews to conduct. Proposers are advised that the Agency may decide to conduct interviews with less than all responsive vendors.

The purpose of oral interviews is to clarify and expound upon information provided in the written Proposals. Proposers are prohibited from altering the basic substance of their Proposals during the oral interviews. The Agency may ask the Proposer to provide written clarifications of elements in their Technical Proposal regardless of whether it intends to conduct Oral Interviews.

Information gained from oral interviews and product demonstrations will be used to refine technical review scores assigned from the initial review of the Proposals.

G. Final Technical Scoring of Proposals

Following Oral Interviews (if determined to be necessary), Reference Checks and/or review of written clarifications of proposals requested by the Agency, the evaluation team will determine a final score for each Technical Proposal.

H. No Best and Final Offer

The Proposal should be submitted initially on the most favorable terms which the vendor can propose. There will be no best and final offer procedure. The Proposer should be prepared to accept this RFP for incorporation into a contract resulting from this RFP. Contract negotiations may incorporate some or all of the Proposal.

I. Final Selection

The Agency will conduct a final selection based on the final evaluation of the initial proposals.

SECTION 7 – Terms and Conditions Related to the RFP Process

A. RFP Addendum

The Agency reserves the right to amend this RFP at its discretion, prior to the Proposal submission deadline. In the event of an addendum to this RFP, the Agency, at its sole discretion, may extend the Proposal submission deadline, as it deems appropriate.

B. Non-Collusion

The Contractor's signature on a Proposal submitted in response to this RFP guarantees that the prices, terms and conditions, and work quoted have been established without collusion with other Contractors and without effort to preclude the Agency from obtaining the best possible competitive Proposal.

C. Property of the Agency

All material received in response to this RFP shall become the property of the State and will not be returned to the Contractor. Upon Contract award, the State reserves the right to use any information presented in any Proposal.

D. Confidentiality of a Proposal

Unless necessary for the approval of a contract, the substance of a proposal must remain confidential until the Effective Date of any Contract resulting from this RFP. A Proposer's disclosure or distribution of Proposals other than to the Agency will be grounds for disqualification.

E. Public Disclosure

Pursuant to RSA 21-G: 37, all responses to this RFP shall be considered confidential until the award of a contract. At the time of receipt of proposals, the Agency will post the number of responses received with no further information. No later than five (5) business days prior to prior approval of the contract by the Agency pursuant to this RFP, the Agency will post the name, rank or score of each proposer.

The content of each Proposer's Proposal shall become public information upon the award of any resulting Contract. Any information submitted as part of a response to this request for proposal (RFP) may be subject to public disclosure under RSA 91-A. In addition, in accordance with RSA 9-F:1, any contract entered into as a result of this RFP will be made accessible to the public online via the website Transparent NH (<http://www.nh.gov/transparentnh/>). Accordingly, business financial information and proprietary information such as trade secrets, business and financials models and forecasts, and proprietary formulas may be exempt from public disclosure under RSA 91-A:5, IV. If you believe any information being submitted in response to this request for proposal, bid or information should be kept confidential as financial or proprietary information; you must specifically identify that information in a letter to the agency, and must mark/stamp each page of the materials that you claim must be exempt from disclosure as "CONFIDENTIAL". A designation by the Proposer of information it believes exempt does not have the effect of making such information exempt. The Agency will determine the information it believes is properly exempted from disclosure. Marking of the entire Proposal or entire sections of the Proposal (e.g. pricing) as confidential will neither be accepted nor honored.

Notwithstanding any provision of this RFP to the contrary, Proposer pricing will be subject to disclosure upon approval of the contract. The Agency will endeavor to maintain the confidentiality of portions of the Proposal that are clearly and properly marked confidential. If a request is made to the Agency to view portions of a Proposal that the Proposer has properly and clearly marked confidential, the Agency will notify the Proposer of the request and of the date the Agency plans to release the records. By submitting a Proposal, Proposers agree that unless the Proposer obtains a court order, at its sole expense, enjoining the release of the requested information, the Agency may release the requested information on the date specified in the Agency's notice without any liability to the Proposers.

F. Non-Commitment

Notwithstanding any other provision of this RFP, this RFP does not commit the Agency to award a Contract. The Agency reserves the right, at its sole discretion, to reject any and all Proposals, or any portions thereof, at any time; to cancel this RFP; and to solicit new Proposals under a new acquisition process.

G. Proposal Preparation Cost

By submitting a Proposal, a Proposer agrees that in no event shall the Agency be either responsible for or held liable for any costs incurred by a Proposer in the preparation of or in connection with the Proposal, or for Work performed prior to the Effective Date of a resulting Contract.

H. Ethical Requirements

From the time this RFP is published until a contract is awarded, no bidder shall offer or give, directly or indirectly, any gift, expense reimbursement, or honorarium, as defined by RSA 15-B, to any elected official, public official, public employee, constitutional official, or family member of any such official or employee who will or has selected, evaluated, or awarded an RFP, or similar submission. Any bidder that violates RSA 21-G:38 shall be subject to prosecution for an offense under RSA 640:2. Any bidder who has been convicted of an offense based on conduct in violation of this section, which has not been annulled, or who is subject to a pending criminal charge for such an offense, shall be disqualified from bidding on the RFP, or similar request for submission and every such bidder shall be disqualified from bidding on any RFP or similar request for submission issued by any state agency. A bidder that was disqualified under this section because of a pending criminal charge which is subsequently dismissed, results in an acquittal, or is annulled, may notify the department of administrative services, which shall note that information on the list maintained on the state's internal intranet system, except in the case of annulment, the information, shall be deleted from the list.

I. Challenges on Form or Process of the RFP

Any challenges regarding the validity or legality of the form and procedures of this RFP shall be brought to the attention of the Agency at least five (5) business days prior to the Proposal Submission Deadline. By submitting a proposal, the Proposer waives the right to challenge the Agency's use of the form and procedures of the RFP, including the criteria for evaluating and scoring the Proposals.

Section 8 – Contract Terms and Award

A. Non-Exclusive Contract

Any resulting Contract from this RFP will be a non-exclusive Contract. The State reserves the right, at its discretion, to retain other Contractors to provide any of the Services or Deliverables identified under this procurement or make an award by item, part or portion of an item, group of items, or total Proposal.

B. Award

If the State decides to award a contract as a result of this RFP process, any award is contingent upon appropriation of funds.

C. Standard Contract Terms

The Agency will require the successful bidder to execute a Not to Exceed Contract using the Standard Terms and Conditions of the State of New Hampshire which is attached as Appendix A.

The Term of the Contract will be for 1 year from the date of approval. The contract term may be extended by an additional term of 5 years at the sole option of the State, subject to the parties' prior written agreement on terms and applicable fees for each extended term.

The Agency may consider modifications of this form during negotiations. To the extent that a Proposer believes that exceptions to the standard form contract will be necessary for the vendor to enter into the Agreement, the Proposer should note those issues during the Proposer inquiry period. The Agency will review requested exceptions and accept, reject or note that it is open to negotiation of the proposed exception at its sole discretion. If the Agency accepts a Proposer's exception the Agency will, at the conclusion of the inquiry period, provide notice to all potential vendors of the change to the P-37 and indicate that change is available to all potential bidders. Any exceptions to the standard form contract that are not raised during the vendor inquiry period are waived. In no event is a Proposer to submit its own standard contract terms and conditions as a replacement for the State's terms in response to this solicitation.